

SENATE BILL 171

By McNally

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 1, Part 2; Title 16, Chapter 5; Title 16, Chapter 4; Title 17, Chapter 4 and Title 17, Chapter 1, relative to selection of judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 17-4-101(b), is amended by deleting the subsection in its entirety.

SECTION 2. Tennessee Code Annotated, Section 17-4-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a) There is established as a part of the judicial branch of the state a judicial selection commission to be composed of four (4) members as follows.

(1) One (1) member appointed by the republican party caucus of the senate to serve an initial term of six (6) years;

(2) One (1) member appointed by the democratic party caucus of the senate to serve an initial term of four (4) years;

(3) One (1) member appointed by the republican party caucus of the house of representatives to serve an initial term of two (2) years; and

(4) One (1) member appointed by the democratic party caucus of the house of representatives to serve an initial term of six (6) years.

(b) Each subsequent appointment to the judicial selection commission shall be made in the same manner as prescribed by subsection (a), but shall be subject to the requirements set forth in § 17-4-106.

(c) All meetings of the judicial selection commission shall be open to the public. Notice of the time, place and purpose of the meetings shall be given in accordance with the requirements set forth in § 8-44-103.

(d) Notwithstanding the provisions of any law or rule to the contrary, all records, papers, forms, applications and other documents requested, required or maintained by the judicial selection commission shall be open for public inspection in accordance with the requirements set forth in title 10, chapter 7, part 5.

SECTION 3. Tennessee Code Annotated, Section 17-4-109, is amended by adding the following sentence at the end of subsection (c):

In order to be eligible for consideration by the commission, each prospective nominee must provide, in addition to any other information required by the commission, a complete work and credit history and must submit to a criminal records background check.

SECTION 4. Tennessee Code Annotated, Section 17-4-109(d), is amended by deleting the first sentence and by substituting instead the following:

After one (1) public hearing, the commission may hold such additional public meetings as it deems necessary.

SECTION 5. Tennessee Code Annotated, Section 17-4-109(e), is amended by deleting the language “in public or private meeting” and by substituting instead the following:

in one (1) or more public meetings

SECTION 6. Tennessee Code Annotated, Section 17-4-109(e), is further amended by deleting the language “then the commission may meet, select such persons and certify the names of such nominees” and by substituting instead the following:

then the commission may meet, in one (1) or more public meetings, select such persons and certify the names of such nominees

SECTION 7. Tennessee Code Annotated, Section 17-4-110, is amended by adding the following language as a new, appropriately designated subsection:

(c) No person holding the office of executive director of the administrative office of the courts, the office of attorney general and reporter, or the chairmanship of the judicial council shall be eligible for nomination by the judicial selection commission during such person's tenure in office or during the two-year period immediately following such person's departure from such office.

SECTION 8. Tennessee Code Annotated, Section 16-4-102, is amended by deleting the section in its entirety and by substituting instead the following:

At the regular judicial election held every eight (8) years, there shall be elected twelve (12) judges of the court of appeals as follows:

(1) Four (4) judges shall be elected by the qualified voters of the state's eastern grand division, as described in § 4-1-202;

(2) Four (4) judges shall be elected by the qualified voters of the state's middle grand division, as described in § 4-1-203; and

(3) Four (4) judges shall be elected by the qualified voters of the state's western grand division, as described in § 4-1-204.

Each judge shall be at least thirty (30) years of age, shall be duly licensed to practice law in the state of Tennessee, shall reside within the grand division from which he or she was appointed or elected, and shall have been a resident of the state for a period of at least five (5) years immediately preceding appointment or election to the court. The oath of office of each judge shall be filed and entered on the minutes of the court in the particular grand division from which he or she has been appointed or elected; and the oath shall likewise be filed and entered on the records in the office of the secretary of state at Nashville.

SECTION 9. Tennessee Code Annotated, Section 16-5-101, is amended by adding the following sentence to the end of the section:

The court shall be composed of nine (9) judges.

SECTION 10. Tennessee Code Annotated, Section 16-5-102, is amended by deleting the section in its entirety and by substituting instead the following:

At the regular judicial election held every eight (8) years, there shall be elected nine (9) judges of the court of criminal appeals as follows:

(1) Three (3) judges shall be elected by the qualified voters of the state's eastern grand division, as described in § 4-1-202;

(2) Three (3) judges shall be elected by the qualified voters of the state's middle grand division, as described in § 4-1-203; and

(3) Three (3) judges shall be elected by the qualified voters of the state's western grand division, as described in § 4-1-204.

Each judge shall be at least thirty (30) years of age, shall be duly licensed to practice law in the state of Tennessee, shall reside within the grand division from which he or she was appointed or elected, and shall have been a resident of the state for a period of at least five (5) years immediately preceding appointment or election to the court.

SECTION 11. Tennessee Code Annotated, Section 16-5-103(a), is amended by deleting the subsection in its entirety.

SECTION 12. Tennessee Code Annotated, Section 17-1-103, is amended by deleting the section in its entirety and by substituting instead the following:

The judges of the supreme court are elected by the qualified voters of the state at large. The judges of the court of appeals and the judges of the court of criminal appeals are elected by the qualified voters of the respective grand divisions of the state, in accordance with the provisions of §§ 16-4-102 and 16-5-102. The chancellors, circuit judges, and judges of special courts are elected by the qualified voters of the respective judicial districts, and special judicial districts.

SECTION 13. Tennessee Code Annotated, Section 17-4-114(b)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) If the declaration of candidacy is timely filed, then only the name of the candidate, without party designation, shall be submitted to voters in the regular August election. If the candidate seeks retention as judge of the supreme court, then all county election commissions within the state shall cause the following question to be placed on the ballot; however, if the candidate seeks retention as judge of the court of appeals or the court of criminal appeals, then only the county election commissions within the appropriate grand division of the state, as determined pursuant to § 16-4-102 or § 16-5-102, shall cause the following question to be placed on the ballot:

Shall (Name of Candidate) be elected and retained in office as (Name of Office)? Yes..... Or No.....

SECTION 14. Tennessee Code Annotated, Section 17-4-115(b)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) If the declaration of candidacy is timely filed, then only the name of the candidate, without party designation, shall be submitted to voters in the regular August election. If the candidate seeks retention as judge of the supreme court, then all county election commissions within the state shall cause the following question to be placed on the ballot; however, if the candidate seeks retention as judge of the court of appeals or the criminal court of appeals, then only the county election commissions within the appropriate grand division of the state, as determined pursuant to § 16-4-102 or § 16-5-102, shall cause the following question to be placed on the ballot:

Shall (Name of Candidate) be elected and retained in office as (Name of Office)? Yes..... Or No.....

SECTION 15. Sections 1, 2(a) and 2(b) of this act shall take effect September 1, 2007; and the terms of the current membership of the judicial selection commission shall expire at such time. All remaining provisions of this act shall take effect upon becoming a law, the public welfare requiring it.